Mrs. T. Francis *(Ernakulam Women's):* I am sorry, Sir.

Mr. President: The question is that the Cochin Co-operative Societies Act (Amendment) Bill be taken up and finally passed.

Motion put and carried.

(ii) The Cochin Merchandise Marks Act (Amendment) Bill

Mr. P. Rama Menon *(Advocate-General):* Sir, I rise to move that the Cochin Merchandise Marks Act (Amendment) Bill be taken up and finally passed.

Mr. M. Sivarama Menon *(Constitutional Adviser):* I second it, Sir.

Mr President: The question is that the Cochin Merchandise Marks Act (Amendment) Bill be taken up and finally passed.

Motion put and carried.

3. Point of Order Re-Legislative Business

Mr. P. Govinda Menon *(Ernakulam):* Sir, before you proceed for taking up the non-official business, I have to make a humble submission. I find from the agenda placed before the House that Government have allotted today and tomorrow for non-official business. Today and tomorrow have been allotted by the agenda for non-official business of two particular classes, that is to say legislative business and resolutions. I find from the agenda for Friday that non-official bills are there and for Saturday I. Questions and Answers and II. Business left over from the previous day.

Mr. President: That is on the printed agenda.

Mr. P. Govinda Menon *(Ernakulam):* Now the business left over from today may be either legislative business, if the legislative business is not over by 5 p.m. today, or resolutions If all the legislative business is over by 5 p.m. today. Therefore according to the Agenda placed before the House, it must be taken as the Diwan, now the Government which means His Highness acting through the Ministers, have posted and allotted Friday and Saturday for the transaction of two classes of non-official business namely legislative business and resolutions. Now we are going to proceed to take up one class of business namely legislation.

Mr. President: The Hon'ble member says one as legislation and the other as resolutions.

Mr. P. Govinda Menon *(Ernakulam):* Yes, Sir. Now tomorrow immediately after questions and answers, according to the agenda placed before the House, we may take up other resolutions or we may take up legislation if legislative business is not over by 5 p.m. today and if it is over by 5 p.m., according to the agenda we will have to take up resolutions. Before we start the non-official business, we must know what time we will get because I find a supplementary agenda placed for tomorrow before we are starting non-official business—a supplementary agenda which cuts across the non-official business allotted for the Council. The supplementary agenda begins as follows:—

"After Questions and Answers Mr. P. Narayana Menon will move the following motion.—etc." that is to say the allotment of today and tomorrow, the allotment of the two days, Friday and Saturday, for non-official business belonging to two specific classes namely legislation and resolutions have been altered by the supplementary agenda placed before us. I don't want to speak a word about the resolution.

Mr. President: I understand the point.

Mr. P. Govinda Menon *(Ernakulam):* Now according to me the President has no power to do so and the only authority in Cochin today to do so is the Government because under Standing Order 6, the Diwan, after considering the state of business of the Council shall, at the commencement of each meeting, that is to say at least by 11 o'clock on Monday last, allot so many days as are in Government's opinion compatible with public interest for the business of the non-official members of the Council and may allot different days for the disposal of different classes of such business; that is different classes of non-official business and may from time to time during the meeting alter such allotment and on these days such business shall have precedence. I find from the supplementary agenda that the business, allotment of business, has been altered by the President, probably by the Government—I don't know. Now if it is by the President it is invalid. But I don't know whether the president has consulted the Government on that matter and if Government think that the resolution standing in the name of Mr. Narayana Menon is as important as at least the legislative business of the non-official members here, I do not want for a moment to question.

Mr. President: That is a different matter.

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Mr. P: Govinda Menon *(Ernakulam)*: Therefore I wish to know even at this stage whether Government have agreed to alter the agenda placed before this House and if it has not been agreed then we will deal with the Legislative business on the assumption that tomorrw at 12-30 we will be able to deal with it.

Mr. President: I am glad that the Hon'ble Leader of the opposition has brought this point to the notice of the chair. It is good that all points are clarified for future guidance. Now the Hon'ble member has alluded to standing order 6 and at the same time I would like to draw the attention of the House to standing order 26 and paragraph 73 of the Manual which says among other things in clause 2 that the president may adjourn any sitting or business to any future day or hour or any part of the same without discussion or vote. Relying upon this I have posted the supplementary agenda for tomorrow. That is the position, Therefore I am relying upon the standing orders. I would very much like to know whether this is not applicable. I have done it under standing order 26 in good faith.

Mr. P. Govinda Menon *(Ernakulam)*: Now, Sir, there is absolutely no difficulty. We need not spend the valuable time of the House. The curtain can be cut if the Government will request the president to take up this matter to-morrow at 11-30 a. m. That is the way to do it under rule 26.

Mr. President: The chair has exercised the power under S. O. 26. I would like to know whether my position is correct. I don't want to get over this difficulty. But I want to know what is the effect of this rule upon my powers.

Mr. M. Sivarama Menon *(Constitutional Adviser)*: Sir, even before we considered the rule, as this is a question of importance, the Government may have issued orders. Now I wish to bring to the notice of the Hon'ble President S. O. 7. and paragraph 29 (2) of the Manual "Save as otherwise provided no business not included in the list of business for the day shall be transacted at any sitting without the leave of the President". Now if a point of order is to be raised upon any item in to-morrow's agenda that can beadone only with the previous permission of the President, because any item appearing in the list of business can be considered only with the special leave of the Hon'ble President, the point raised by the Leader of the opposition is not a point of order. With regard to the item of business it may appear right or wrong in to-morrow's agenda. Therefore any point of order in connection with that business can be rightly raised under the principles laid down in this S. O. only with the special leave of the President. "Save as otherwise provided in the rules or the standing orders no business not included in the list of business for the day shall be transacted at any sitting without the special leave of the President".

Mr. President: So the Constitutional Adviser says that in the context it can be raised only to-morrw unless specially allowed by the President.

Mr. M. Sivarama Menon *(Constitutional Adviser)*: And I would submit that so far as Government is concerned, it is always desirable that good precedence should be established for the purpose of transacting the business of the House. If a precedence is created, if a rule is established, by which any point of order with regard to any item which has to be considered on a later date is considered on an earlier date, then to my humble mind it appears that will be creating a bad precedence. Thepoint raised by the Hon'ble Leader of the Opposition should certainly be considered for the purpose of arriving at a right decision. I submit that we should not create a bad precedence because once we go out of the track and then try to raise points of order, I do not know whether the Leader of the Opposition have such a precedence created on the floor of this House and ask for the special leave of the President for this purpose. As a matter of fact, I may declare that Government have not exercised a power to have that posted. Now let those facts remain there. I would request the Hon'ble Leader of the Opposition to raise his point to-morrow rather than creating a bad precedence.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: Is that a point of order ?

Mr. M. Sivarama Menon *(Constitutional Adviser)*: Really that question does not arise. There is a motion which appears in to-morrow's paper and when the time comes it will certainly be within the right of the Hon'ble Member without any special leave of the Hon'ble President to raise it. Now if the question is absolutely ultra-wires then that point is there. On account of the fact that it appears on to-morrow's paper and thinking that if any protest is raised to-day because the House will have assessed that matter that does not mean that any item of business entered in to-morrow's business which could not have been entered, can be there. Therefore it is for the Hon'ble President to consider whether under the Standing Orders the matter cannot be considered without the special leave of the President. With regard to the

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matter arising out of the Agenda posted to a later date it cannot be considered on the same principle.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* Sir, Can I contribute a word if I have the leave of the Chair ?

Mr. President : Yes.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* Closely following the observations made by the Constitutional Adviser, I would only just point out one other circumstance. What was enunciated by my Esteemed Friend was exactly the position taken up by the Leader of the Opposition yesterday when on this identical subject which was characterised in a particular way when I raised a point of order that it is completely non-discussable in this House. My Learned Friend was against me and the Constitutional Adviser yesterday.

Mr. P. Govinda Menon *(Ernakulam):* I don't want to identify it with this particular matter.

മിസ്റ്റർ കെ. അയ്യപ്പൻ: സർ, കോൺസ്റ്റിറ്റ്യൂഷനൽ അഡ്വൈസർ പറഞ്ഞതിനെ പ്പറ്റി ഒരുവാക്ക് പറയുവാനുണ്ട്. ഇവിടെ Point of order റെയിസ് ചെയ്യുന്നതു് പ്രോപ്പർ സെൻസിൽ Transaction of business-ആകുമോയെന്നുള്ളതാണ് നോക്കേണ്ടതു്? ഇന്നു Point of order റെയിസ് ചെയ്യുവാൻ Occasion ഉണ്ടായെന്നു് നോക്കണം. അജണ്ട മാറിയിട്ടുള്ളവിവരം അറിഞ്ഞതു് ഇന്നായതുകൊണ്ടു് അതിനെ സംബന്ധിച്ചു Point of order കൊണ്ടുവരുവാൻ പാടുള്ളതല്ലെ?

മിസ്റ്റർ എം. ശിവരാമമേനോൻ: നാളെയാണ് ഈ Point of order raise ചെയ്യുന്നതെങ്കിൽ അതു ശരിയാണ്. ഇന്നത്തെ അജണ്ടയിൽ ഇനിയും യാതൊരു സ്ഥാനവുമില്ല. അതുകൊണ്ടു് നാളത്തെസംഗതിയെക്കുറിച്ചു് ഇന്നു് ആലോചിക്കുന്നതു് ശരിയല്ല.

***Mr. P. Govinda Menon** *(Ernakulam):* Sir, two points have been raised by the learned Constitutional Adviser. He first of all referred to Standing order 7 clause 2 which says "save as otherwise provided in the rules or these standing orders, no business not included in the list of business for the day shall be transacted at any sitting without the leave of the President". That clause is not applicable to this matter—I will answer the other thing later—for two reasons. Standing Order 6 says that the Diwan, now the Government, have got the power to alter the allotment, that is to say after having prepared an agenda, even subsequently as the business goes on, the Diwan has got the power to alter the allotment. That is what Standing Order 6 says; but Standing Order 7 says that although the authority for alteration of allotment, although the jurisdiction to alter the allotment, although the power to alter the allotment, is with the Diwan or the Government, still the leave of the President is required in order to change the agenda. The sequence of the Standing Orders will show that Standing Order 6 says (first part) that Government can alter the allotment, but Standing Order 7 says nevertheless even though Government have altered the allotment "save as otherwise provided in the rules or these standing orders, no business not included in the list of business for the day shall be transacted at any sitting without the leave of the President". That leave of the President comes into play. Occasion for it arises only after the Government have exercised their jurisdiction to alter the allotment. Therefore the reference to the divergence to Standing Order 7 only reinforces my contention that it is Government which has to alter the allotment. But even after that leave of the President is required.

Then regarding the point that it is much better, it would be creating a better convention if this is raised tomorrow, I have to endorse what Mr. Ayyappan said. I am not speaking about the admissibility of this resolution. Now we have to proceed with this legislative busines—there are four Bills standing in our name. We consider them to be somewhat important, that is why we have sent them and if, as a matter of fact, the even course of the legislative business for which two out of five days alone have been allotted, if the even course of that legislative business has been threatened today by the supplementary agenda placed on the table, because we are given notice that you can proceed with legislative business only till 5 p.m. today—the President admitted in his statement that he has exercised the discretion in altering the allotment and placing the supplementary agenda on the table, that is under the Standing Orders. Therefore there is action, there is initiation by him. Therefore the question of leave doesn't arise. Question of leave arises only after Government have exercised their power under Standing Order 6. Therefore, Sir, the question today is whether the supplementary agenda already

*Speech not corrected by the Hon'ble Member.

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[Mr. P. Govinda Menon]

placed on the table; is not in the contemplation of the President; is not in contemplation of the Secretary or the office. It is a *de facto* business and it is placed on the table. What Mr. Ezhuthassan said is not correct. I am not speaking about the resolution. I am speaking on the allotment of business. Have we the time to consider legislative business tomorrow. If we are anxious about the legislative business being closed today, we must so adjust to have it finished before 5 p.m. It is much better and probably creating very healthy convention to end this business beforehand. Otherwise the Supplementary agenda need not have been placed here today. Till 12-32 we were having official business. Now we are having non-official business. Where do we stand? Are we having legislative business or has Government cut across that even course of non-official business according to the power vested in them, and according to me in spite of Standing Order 26 only in them. Have they exercised that Power. If they have not, we can prepare for other non-official work. That is the legislation. Let us have no hide-and-seek in these matters. If Government want, let them say so, so that we can have this business at 12-30 tomorrow. If Government have not altered the allotment, the only question is whether the President has. Then coming to Standing Order 26, Sir, I would submit that the question must be considered now and just now. I have been allowed by you. I am not withdrawing the point of order and I request a ruling even today.

Mr. President: On that matter whether it can be raised today.....

***Mr. P. Govinda Menon** *(Ernakulam)*:** Sir, the point of order has been raised. It is a ruling on the point of order that is required. Coming to S. O. 26, it refers to adjournment of business. Now the first portion of it says that business standing in the agenda can be passed over by a motion moved in the House, the motion that any sitting of business be adjourned or postponed or that the Government pass to the business next in order in the statement of business, may be moved at any time, as a distinct question, but not so as to interrupt a speech. If the motion is carried, etc, that is to say any member of the House may move a motion without previous notice that an item of business be postponed or the House be passed over to the next item on the genda.

Then comes to clause 2. You may adjourn any business to any future day and hour or to any part of the same day without discussion or vote, that is to say provided there is an item of business on the agenda rightly there, you can adjourn it. That is to say that initial validity to the posting is required. According to the learned ruling made by you yesterday, the posting of this matter—I use the word "matter", because I don't want to use the word "motion" the posting of this matter on Wednesday has been found by you to be bad. If it were rightly there, if it were validly there, if it were correctly there, then you have the discretion under Rule 26 (2). As you have an authority or power under Rule 26 (1) that it may be taken on another day, then it is clear the two power are co-relative. There is a power vested in the House. The House can say for example there is this Bill by Mr. Dewer. Mr. Dewer's Bill comes up first. Any member of the House can get up and say with reasons that this may be taken up tomorrow.

Mr. President: That is the usual course.

Mr. P. Govinda Menon *(Ernakulam)*: ....may be taken up tomorrow or you can, under Rule 26, say no doubt Government have allotted Friday for consideration of the Hon'ble member, Mr. Dewer's Bill but acting on the powers under Rule 26 (2) I do post it for Saturday. It may be taken up for tomorrow. For that purpose there is Rule 26 (2). Therefore the very idea of adjournment involves the idea of a valid posting.

Mr. President: If I understand the Hon'ble member correctly namely that under the Rule if I want it to be there—such instances have not occurred before if I remember aright—that is to say the Leader of the Opposition says that an item on the Agenda of a particular day can be shifted by the President to any other day only in case that item is validly there, included on that day's agenda. If it is only included in that day's business, it means it is not included in the agenda and it must be considered as invalid.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: It is in the air, Sir.

Mr. President: Air or under the earth, it doesn't matter.

Mr. P. Govinda Menon *(Ernakulam)*: Therefore my submission is this, Sir. To sum up under S. O. 26, we have had one interpretation of that S. O. yesterday. Under S. O. 6 as they stand to day the allotment of business must be made by Government. I got the agenda and I found that this matter was posted for Wednesday. I thought that it was so posted with Government's consent.

*Speech is not corrected by the Hon'ble Member.

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Mr. President: I honestly say it was a technical mistake. Technical mistakes are corrected.....

Mr. P. Govinda Menon *(Ernakulam):* And Government said that they have not given consent to waive precedence for official business. Now the question arises, Sir, who can give consent or exercise authority over non-official business. It is the second part of the question. According to me Government are the authority on account of S. O. 6 and even after Government have exercised that power, you must give it, because you are our custodian; you are the custodian of the rights and privileges of the members. Government may act for reasons best known to the mselves, but we must have an ultimate residue of authority vested some-where which will come to our rescue so that even if Government have exercised their power to cut across agenda, we can beg to you not to give consent under Standing Order 7 pointed out by the Constitutional Adviser.

Mr. President: That is to say if the Government comes and say that this has to be included in the Agenda, they must get the permission of the President.

Mr. P. Govinda Menon *(Ernakulam):* Or we can request the President not to give precedence, and Standing Order 26 says 'if and only if'. Now that writing which appeared in the Agenda of Wednesday is not worth the paper on which it is written, because it is not valid. So much paper and so much printing will be wasted. I am referring to the validity.

Mr. President: It was done for the wrong understanding of the Rule.

Mr. P. Govinda Menon *(Ernakulam):* So the question of adjournment arises. You have no power because it is not their validity and S. O. 7, under which you have stated that you are acting, you are relying, states that the President shall have no power to adjourn the conduct of business in the Council. No, that has nothing to do with the agenda. Now there is one Standing Order, *under which alone* this comes because Sir, in these days of transition, that Standing Orders are not up-to-date and unfortunately for the word "Dewan" we have used the word "Government", because the Government involves His Highness also. For these matters His Highness also comes in under Standing Order 64.

Unless the President otherwise directs, not less than fifteen days' notice of a motion for leave to amend the standing orders shall be given and the notice shall be accompanied by a draft of the proposed amendments.

Mr. President: That is the question to amend Standing Order.

Mr. P. Govinda Menon *(Ernakulam):* That is the only motion which is in the discretion of the President to post for any day for which the President.....

Mr. President: I have done it.

Mr. P. Govinda Menon *(Ernakulam).* But that is the only Standing Order that the President can make passing all the other authority which is vested in the Government. My humble submission is this: Government have now stated that Government have not agreed to change the allotment of business for to-day and to-morrow. The Constitutional Adviser has unequivocally stated that they have not agreed to change the allotment of time for Government business for to-day or to-morrow. Therefore the responsibility is yours and only yours to cut across the even course of non-official business set apart in the agenda. We have the right to demand that legislative business should be taken up before resolutions.

Mr. President: I am exercising the powers which I have got. You need not have to elaborate on it.

Mr. P. Govinda Menon *(Ernakulam):* My humble submission is this. The most valuable matter which stands in the name of Mr. P. Narayana Menon must be discussed on the floor of this House and this country saved from the evil consequences of that resolution not being moved. Government in whose hands our safety are pleaced must come to our rescue.

Mr. President: Next the non-official business.

(2) Non-official Bills

(i) The Cochin Shops and Commercial Establishments Bill

Mr. P. K. Dewer *(Nominated):* I move that Cochin Shops and Commercial Establishments Bill be taken up and finally passed.

Mr. Puthur Achutha Menon *(Kattur):* I second it.

Mr. President: The question is that the Cochin Shops and Commercial Establishments Bill be taken up and finally passed.

Motion put and carried

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